S.B. CIVIL WRIT PETITION NO.6838/2003

Pannalal vs. District Judge, Jodhpur and another.

Date : 17.12.2004

HON'BLE MR. PRAKASH TATIA, J.

Mr. Vinay Jain, for the petitioner.

Mr. M.L. Choudhary, for the respondent no.2.

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Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 6.7.2000 by which the trial court closed the evidence of the defendant/petitioner.

It appears from the copies of the order-sheets placed on the record that the plaintiff's evidence was closed only on 27.4.2000 and the case was fixed for evidence of the defendant on 24.5.2000. On 24.5.2000, time was sought upon which the Court fixed the case for defendant's evidence on 6.7.2000. On 6.7.2000, it is submitted that because of the serious illness of the petitioner's mother, he was not in a position to produce the evidence.

In view of the above, it is clear that the trial court could have granted atleast one more opportunity to the petitioner to produce his evidence.

Consequently, this writ petition is allowed and the order dated 6.7.2000 is set aside and the petitioner is permitted to produce his witnesses on

condition of payment of costs of Rs.1,000/- to the plaintiff/respondent no.2. The petitioner undertakes that he will produce all his witnesses on one date which may be fixed by the trial court as per the convenience of the Court and parties.

(PRAKASH TATIA), J.

S.Phophaliya